

# **FREDERICK COUNTY PLANNING COMMISSION**

**August 12, 2015**

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**TITLE:** Ridges at Long Branch (Formerly Ratley)

**FILE NUMBER:** S-1169, AP 15066 (APFO 15068, FRO 15069)

**REQUEST:** **Preliminary Plan Approval**  
The Applicant is requesting Preliminary Plan approval for 43 single family residential lots on a 23.61-acre site.

**PROJECT INFORMATION:**

**ADDRESS/LOCATION:** East and West sides of Terra Firma Road, between I-70 and MD 144  
**TAX MAP/PARCEL:** Map 78, Parcel 122  
**COMP. PLAN:** Low Density Residential (LDR)  
**ZONING:** Planned Unit Development (PUD)  
**PLANNING REGION:** New Market  
**WATER/SEWER:** W-4/S-4

**APPLICANT/REPRESENTATIVES:**

**APPLICANT:** Hogan Reality Capital, LLC  
**OWNER:** Barbara Ratley, et. al.  
**SURVEYOR/ENGINEER:** Dewberry  
**ARCHITECT:** N/A  
**ATTORNEY:** N/A

**STAFF:** Tolson DeSa, Principal Planner II

**RECOMMENDATION:** Conditional Approval

**ATTACHMENTS:**

Exhibit 1- Preliminary Plan Rendering  
Exhibit 2- Modification Requests  
Exhibit 3- FRO Modification Request

## STAFF REPORT

### ISSUE

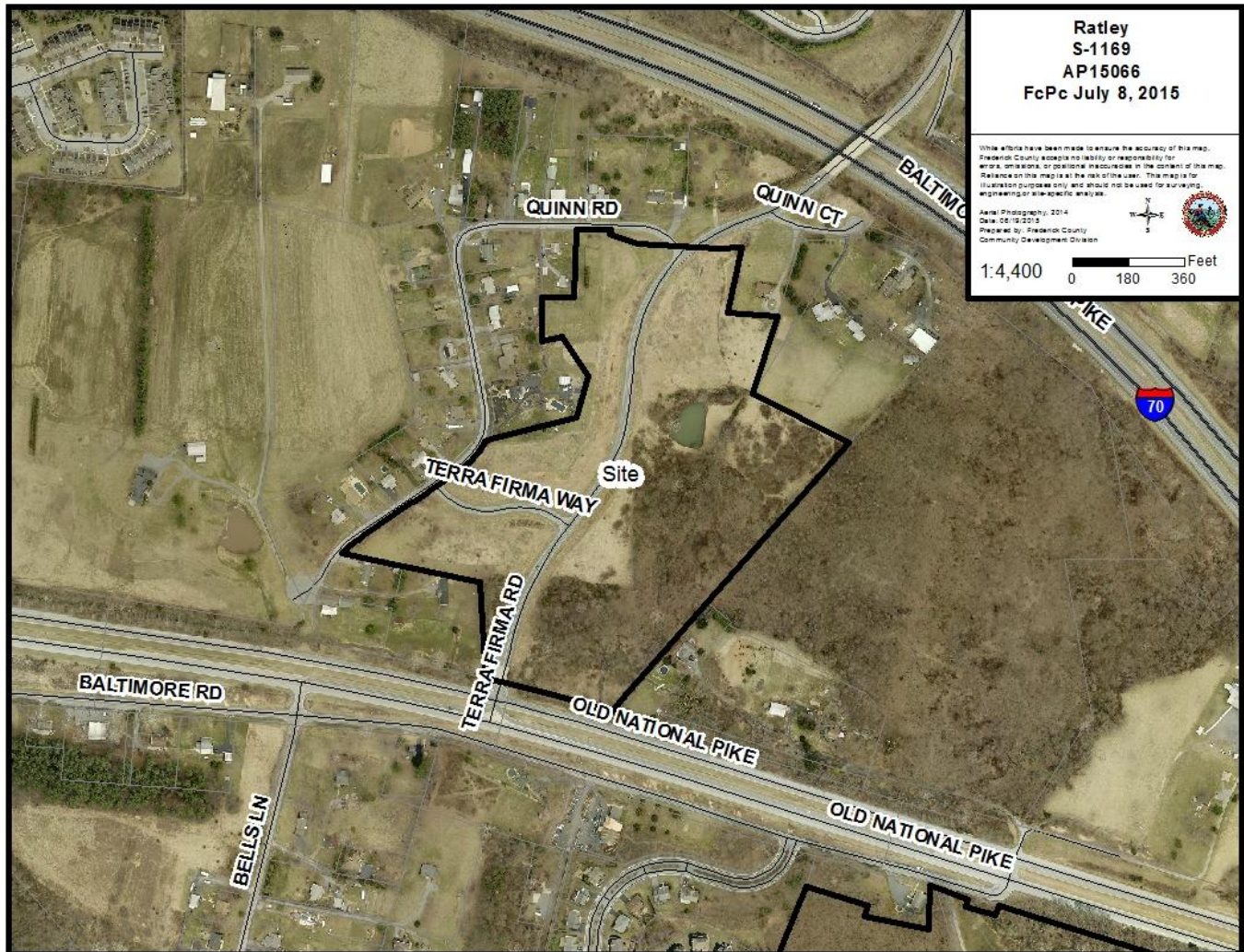
#### DEVELOPMENT REQUEST

The Applicant is requesting preliminary plan approval for 43 single family residential lots on a 23.61-acre site. The proposed use is being reviewed as single family under the residential land use heading of the Planned Unit Development (PUD) regulations contained in §1-19-10.500 in the Zoning Ordinance.

#### Modification Requests

- Increase number of Parking Spaces above minimum required.
- Street tree modification to provide 104 street trees rather than the required 192 and to provide them at alternative locations rather than adjacent to the existing or proposed public right-of-way.
- FRO modification to permit the removal of specimen trees.

Graphic #1 Aerial



### BACKGROUND

#### Phase 1 Rezoning Approval R-14-01:

The property is zoned PUD, effective on October 9, 2014. Zoning Amendment #R-14-01 was approved by the BoCC on July 22, 2014 for the reclassification of the subject property from the Agricultural and R-1 Residential Zoning Districts to the Planned Unit Development District for 23.61 acres as described in Ordinance #14-18-673.

The rezoning was subject to the following conditions:

1. A maximum of 43 single-family detached dwelling units may be constructed on the property.
2. Applicant shall provide a physical street connection to the adjacent parcel to the east.
3. The lots with direct access to Terra Firma Road shall use shared driveways.

All of the rezoning conditions are met by the proposed plan. The applicant is proposing 43 single family residential lots, construction of a roadway that terminates at the common property boundary with the parcel to the east is also planned, and no lot takes direct access to Terra Firma Road.

This development is subject to a Development Rights and Responsibilities Agreement (DRRA) (including APFO LOU) which is dated October 9, 2014 and recorded in the Land Records at L. 10241 F.385.

#### **Existing Site Characteristics**

The site is currently zoned PUD. The property is composed of three parts of a single parcel: Map 78, Parcel 122. Part One is a 16.10 acre portion located to the east of Terra Firma Road, Part Two is a 2.66 acre portion located on the eastern side of Terra Firma Road, south of Terra Firma Way, Part Three is a 4.84 acre portion of Parcel 122 that is located to the east of terra Firma Road, north of Terra Firma Way.

The Property is located along the Long Branch tributary stream, with a small stream flowing from the south to the north on the eastern property boundary. The Monocacy River and its tributaries lie within the Lower Monocacy Watershed which is part of the upper Potomac River Basin.

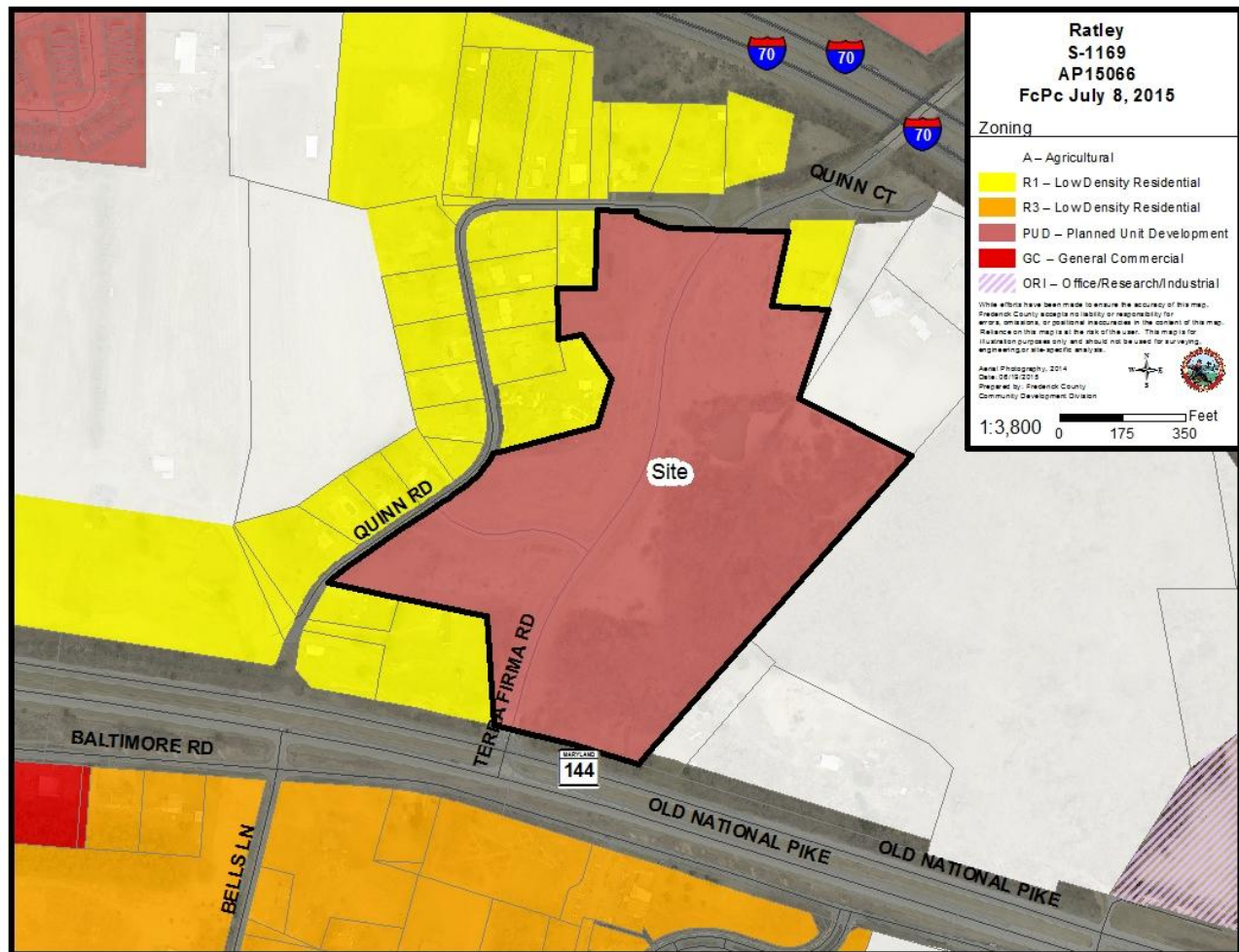
The Property is comprised of primarily of open fields with some wooded areas in the eastern portion of the site (see Graphic #1) above. Terra Firma Road and Way were created in the early 2000's; as a result slopes are gentle to moderate (8-25%) with some areas of steep slopes in excess of 25%. Of the total area of the Property (23.61 acres), total forest area is 6.63 acres. The total area encumbered by FEMA floodplain, stream buffer, or floodplain soils is 7.33 acres.

Wetlands and 100-year FEMA floodplain exist at the southern portion of the site along MD 144; these areas are not impacted by the proposed development.



The site adjoins existing residential development to the west along Quinn Road. Interstate 70 is located to the north of the site, and MD 144 travels along the southern border (see Graphic #2 below).

Graphic #2 Zoning Map



## ANALYSIS

### Summary of Development Standards and Findings and Conclusions

The primary issue associated with this project was revising the overall design in order to avoid the waterbody buffer that is located in the eastern portion of the development. The Applicant and Staff also worked closely on the design of the connection to the undeveloped parcel to the east as well as limiting curb cuts along Terra Firma Road.

### Detailed Analysis of Findings and Conclusions

Preliminary Subdivision Plan approval is granted based upon review of the requirements found in Chapter 1-16 of the Frederick County Code. The project shall also comply with Section 1-19-10.500.6, *Land Use, Mixture, and Design Requirements within the PUD District* and 1-19-10.500.9 *General Development Standards with the Planned Development Districts* within the Zoning Ordinance.

## General Development and Site Layout



### **Zoning Ordinance Requirements:**

#### **§ 1-19-10.500.6 Land Use, Mixture, and Design Requirements within the PUD District.**

**Dimensional Requirements/Bulk Standards §1-19-10.500.6(H).2:** Per this section of the zoning ordinance, setbacks and height shall be established by the Planning Commission at Phase II consistent with the general development standards for the PUD and with consideration of the surrounding development pattern. The Applicant has submitted dimensional requirements for Planning Commission review and approval.

**Setbacks:** The Applicant is requesting approval of the following setbacks:

- **Single Family Detached Homes on a public street:** 20-foot front yard, 20-foot rear yard, and 6-foot side yards. Building height is proposed to be 45' feet.
- **Single Family Detached Homes on a shared driveway:** 6-foot front yard, 10-foot rear yard, and 6-foot side yards. Building height is proposed to be 45' feet.

\*All lots must have 23' provided from the face of garage to the back of the sidewalk. All corner lots shall provide 10' minimum of non-accessible street frontage.

The requested setbacks allow for a superior layout of lots, providing a more compact neighborhood which will have a strong pedestrian orientation, greater vehicular connectivity and redundancy, while providing a better overall network of open space areas. Staff has no objection to the proposed building setbacks and height as listed on Sheet 1 of 15 of the Preliminary Plan.

**Height:** The Applicant is proposing a maximum building height for the single family detached dwellings not to exceed forty-five (45) feet.

**Open Space/Green Area within the PUD §1-19-10.500.6(D):**

The Applicant is required to provide 30% or 7.08 acres for open space and common areas within the overall PUD. The Applicant has provided 44% or 10.46 acres. Therefore this proposal meets the open space requirements. Open space parcels shall be owned and maintained by the Homeowners Association.

**General Development Standards within the PUD §1-19-10.500.9:**

The proposed blocks, lots, and streets have been designed to conform to the general development standards within the PUD. A public street connection is proposed with the parcel to the east of the project and pedestrian facilities are connected to and within the open spaces. Sensitive environmental features have been avoided and preserved. The proposed development is consistent with the approved Phase I rezoning Concept Plan and meets the intent of the PUD General Development Standards.

**Signage §1-19-6.300:** The Applicant is not proposing any signage.

**Landscaping §1-19-6.400:** The Applicant has provided a landscaping plan in accordance with Zoning Ordinance Section 1-19-6.400. The plan proposes a mix of evergreens and deciduous trees. The site is designed with a variety of plant species. Street tree plantings are proposed to be planted in alternate locations in order to meet the required planting of 1 tree every 35 feet of roadway frontage. A total of 192 street trees are required along the public right of ways of both existing and proposed roads of the subdivision which total approximately 6,720 linear feet. The Applicant proposes 192 street trees on-site. However, due to sight distance and street tree location requirements set forth in the *Guidelines for Traffic Control Devices, Street Lights and Street Trees for New Developments*, the Applicant is requesting a modification (see Exhibit #2) to provide 104 of the 192 street trees at alternative locations in the open space parcels throughout the project. Staff has no objection to granting this landscaping modification.

**Lighting §1-19-6.500:** The Applicant is not proposing any street lighting.

**Vehicle Parking §1-19-6.220:** The Applicant is required to provide 86 parking spaces; the Applicant is proposing 129 parking spaces.

The Applicant has submitted a parking space modification statement in accordance with Section 1-19-6.220.A.3., which is attached to this staff report as Exhibit 2. The Applicant is not proposing any on-street parking to satisfy required parking. Staff has no objection to granting this parking space modification to allow for typical on-lot parking spaces.

**Conditions:**

- **Landscape Modification:** Approval of the an Alternate Landscape Plan in accordance with Section 1-19-6.400.I in order to allow for placement of 104 of the 192 required street trees throughout the development due to site distance and street tree location requirements.



- **Parking Modification:** Approval of the parking space modification in accordance with Section 1-19-6.220.A.3., to permit a parking overage of 43 spaces above the required 86, for a total proposed count of 129.

#### **Zoning Ordinance Findings/Conclusions:**

The proposed Preliminary Plan demonstrates the ability to meet the applicable portions of the Zoning Ordinance. If the Planning Commission approves the proposed dimensional requirements and requested modifications the project will meet the Zoning Ordinance requirements.

#### **Subdivision Regulation Requirements:**

**Subdivision Regulations – Chapter 1-16:** This application is subject to the requirements of the subdivision regulations in Chapter 1-16.

**Public Facilities Road Adequacy §1-16-12 (B)(3)(b):** *The proposed subdivision must have access to 1 or more paved collector or higher classification road(s) either directly, or via continuous and adequate public roads, in the direction(s) determined by the Planning Commission. The road(s) which provide the most direct access route to the proposed subdivision for the closest emergency response service must also be adequate.*

The subdivision will be directly accessed via Terra Firma Road which is classified as a collector road on the County Comprehensive Plan. Access to Terra Firma Road has been minimized with the use of parallel public streets to provide direct lot access thereby eliminating individual driveway access to the collector roadway. All proposed lots will have access to a publicly maintained road with continuously paved surface of at least 20 feet in width.

Lots 1-12, 17-20 will access the proposed 26' wide public roadway Julia Way, which will travel east from Terra Firma Road with an eventual connection to the vacant parcel to the east.

Lots 13-16 are proposed panhandle lots, which will access Julia Way via the proposed 20' Talon Court shared Drive.

Lots 21-23 will access a 20' wide public street which will provide two access points onto the existing Terra Firma Road.

Lots 24-29 will have access to the 30' wide existing Terra Firma Way.

Lots 30 & 43 will have access to the existing 20' wide Quinn Road.

Lots 31-35 will have access to Quinn Road via the 20' wide proposed private street Yarrow Lane.

Lots 36-42 will access a 20' wide proposed public street which will run adjacent and parallel to the existing Terra Firma Road.

One cul-de-sac street is proposed, shown as Talon Court. Talon Court emanates from the proposed Julia Way and serves Lots 13-16 of the development. This cul-de-sac is 190 feet long and will serve 4 lots.

The Spring Ridge Fire Station is located less than one mile from the subject property and provides fire response, emergency medical services (EMS). The most direct route from the fire station to the proposed subdivision is Terra Firma Road a collector classified roadway. The proposed lot layout and transportation network meet Subdivision requirements.

**Water and Sewer Facilities. Public Facilities §1-16-12 (C):** *The proposed subdivision shall be disapproved unless each building lot has been approved for individual and/or community sewerage and water facilities by the Health Department.*

On July 31, 2014, the Applicant requested a water and sewer classification amendment for both portions of the property to S-4/W-4. On November 6, 2014 the BoCC approved the reclassification; MDE issued final approval in March of 2015. The Project will be served by a network of both public and private water and sewer mains and service connections.

**§1-16-72 (B)(19)(a & b) Soil Types:** *Soils type(s) information shall be provided and appropriate boundaries shown on the plan. In the event that "wet soils" are located on or within 100 feet of a proposed residential subdivision, a soils delineation report shall be prepared by a licensed soil scientist or professional engineer registered in the State of Maryland. The soils delineation report shall be submitted for review prior to Planning Commission approval of the plan. The Division may waive this requirement if the "wet soils" are located within open space areas.*

The wet soils on-site are located within the open space stream valleys that run along MD 144 in the southern portion of the site. The wet soils areas and the 100 foot setback from the soils lie within the proposed Forest Resource Ordinance preservation easements and will not be impacted by the proposed development.

**§1-16-109 Street, Common Driveway, and Sidewalk Construction:**

*The project shall provide for the complete construction of street improvements, including drainage facilities as provided in section 1-16-234 through 1-16-241 of the Subdivision Regulations and in accordance with the Frederick County Design Manual.*

Closed-section construction is required by subdivision regulations where the lot frontage is less than 80-feet or the minimum lot size is less than 15,000 square feet. The Applicant has proposed closed-section construction of Julia Way. However, the private streets and those areas adjacent to Terra Firma Road are proposed as open section construction. Section 1-16-142 Modifications of the Subdivision Regulations allow the Planning Commission to modify the standards and requirements of the chapter in the case of Planned Unit Developments which achieve substantially the objectives of the regulations. The Applicant has proposed open section construction in some locations within the subdivision due to the existing surrounding open section construction including along Terra Firma Road. At the request of Staff, the Applicant did provide an asphalt trail that is proposed to run north/south on the east side of Terra Firma Road to connect the proposed sidewalk system to the open space areas/trails. Staff has no objection to the combination of open and closed section construction to provide continuity between the proposed and existing development.

The project will provide sidewalks a minimum of 5 feet wide and a 5 foot wide circuitous mulch trail through the development.

**§ 1-16-111 Parks Requirements:**

The project is not subject to the Parks requirements within the Subdivision Regulations since the project consists of less than 59 residential lots.

**§ 1-16-217(A) & (B) Land Requirements:**

*The land use pattern of the comprehensive development plan and the district regulations of the zoning ordinance shall form the basic theme of the design pattern of the proposed subdivision.*



The Comprehensive Plan land use designation for the site is Low Density Residential (LDR). The LDR designation is applied only within Community Growth Areas and represents the least dense residential land use pattern in the growth areas at a density range of from 3 to 6 dwellings per acre with public water and sewer. The proposed subdivision is within the Spring Ridge/Bartonsville Community Growth Area and will be developed with public water and sewer at a gross density of 1.82 dwelling units per acre.

Existing nearby residential development along Quinn Road reflects ½ acre lot sizes. The proposed Preliminary Plan reflects lot sizes along Terra Firma Way and Terra Firma Road (adjacent to the Quinn Road development) that range from 5,682 square feet to 29,309 square feet. The Phase I rezoning Concept Plan originally proposed 60 total dwelling units and reflected larger single family lots along Terra Firma Way and Terra Firma Road with townhomes to be developed in the eastern portion of the development separated from the existing large lot residential development. However, the Phase I rezoning approval limits the development of the property to 43 single-family residential dwellings. In response to the rezoning conditions, a revised concept plan was submitted and approved that removed the conceptual lot sizes and instead provided overall land bay locations. The approved Phase I rezoning Concept Plan identifies 43 - 60 to 70ft. Single Family Detached Dwelling Lots, therefore the proposed Preliminary Plan conforms to the Concept Plan.

In addition, the proposed Preliminary Plan (at a gross density of 1.82 dwellings/acre), while below the allowable density range for the LDR land use designation would still be considered consistent with general land use policies as adopted in the Comprehensive Plan.

*The subdivision design shall take advantage of the uniqueness of the site reflected by the topography, soils, the wooded areas, water bodies and the relationship to adjoining subdivisions and land uses, both proposed and existing.*

The proposed development was designed to avoid the environmental features present on-site (wetlands, wet and flooding soils, waterbodies, and wooded areas) and to cluster development on the remaining lands.

The Property is comprised primarily of open fields with some wooded areas in the eastern portion of the site. The property slopes down from north to south with a majority of the site at a grade of less than 15%. There is a small area of 15% to 25% slopes located near Terra Firma Way and Terra Firm Road.

The Property is located along the Long Branch tributary stream, with a small stream flowing from the south to the north on the eastern property boundary. The site contains FEMA floodplain, wetlands, wet soils and flooding soils. These environmental features are contained within the Waterbody Buffer surrounding the stream. There are no natural hazards located on site that are affected by the development proposal.

The existing forest, as well as new forest plantings, will provide additional buffers along these sensitive areas. This network of forest provides a scenic buffer between the three development land bays and preserves the environmental features of the site. The street network and lot layout is designed to avoid stream crossings.

An internal trail network is shown that provides pedestrian integration. Future connections and enhancements will be made to the adjacent wooded parcel to the east, further promoting linkages and pedestrian opportunities within the project.

**§ 1-16-218. Block Shape:** *The maximum block dimension shall be 1,800 feet.*

No block dimension is greater than 1800 feet. Pedestrian walkways are provided.

**§ 1-16-219. Lot Size and Shape:**

*The size, width, depth, shape, orientation and yards of lots shall not be less than specified in the zoning ordinance for the district within which the lots are located and shall be appropriate for the type of development, the use contemplated and future utilities.*

The Preliminary Plan proposes lots sizes that range from 5,677 square feet to approximately 29,309 square feet. Within the PUD District, dimensional requirements are established by the Planning Commission. Panhandle lots are only permitted in major subdivisions only when a modification is granted by the Planning Commission. The lot sizes are consistent with the Phase I rezoning Concept Plan. Discussion of the panhandle modification is provided in more detail within section 1-16-236 below.

**Development on Dead End Streets §1-16-236 (C) & (K):**

**(C)** *Rights-of-way for proposed streets shall be extended to the boundary lines of the proposed subdivision so that a connection can be made to all adjacent properties unless such extension is not feasible because of topography or other physical conditions, or unless, in the determination of the Planning Commission, such extension is not necessary or desirable for the coordination with existing streets or the most advantageous development of adjacent tracts. In any event, no subdivision shall be designed so as to create or perpetuate the landlocking of adjacent undeveloped land.*

One connection to adjacent properties is proposed. The Applicant has proposed to dead-end Julia Way at the eastern property line of the subject parcel to provide for a possible future roadway extension through to the vacant wooded parcel to the east.

**(K)** *Subdivisions on cul-de-sac or dead end streets shall be permitted only if approved by the Planning Commission (or county staff) in accordance with this division, the Design Manual, and the following provisions, as applicable:*

*(1) For proposed development on new or existing cul-de-sac or dead end street(s), except existing dead end streets described in subsection (2) below, the following requirements apply:*

*(a) Applicant must demonstrate the existence of site specific circumstances that make the design and development of a through street practically infeasible.*

*(b) In the AG and R-1 zoning district, cul-de-sac or dead end street(s) shall not exceed 1,800 feet in length and shall not serve more than 30 lots, dwelling units, or parcels...*

- One cul-de-sac street is proposed, shown as Talon Court. Talon Court emanates from the proposed Julia Way and serves Lots 13-16 of the development. This cul-de-sac is 190 feet long and will serve 4 lots.

**Lot Size and Shape. Panhandle Lots §1-16-219 (C)(2):** *Panhandle lots may be approved by modification of the Planning Commission in major subdivisions only when it is determined by the Commission that "excellence of design" will be achieved or that such lots are inaccessible to the road due to odd shape and/or topographical constraints. In each case, the Planning Commission will determine "excellence of design" based on the spatial relationship of the panhandle lot to other lots and the public road. Only physical design criteria such as odd shape and road inaccessibility, topography, existing utilities, proposed and existing well and septic constraints (Health Department criteria) and natural or man-made features shall be used by the Planning Commission in granting modifications for panhandle lots in major subdivisions.*

Four panhandle lots are proposed in this subdivision;

- Lots 13-16, located at the end of Talon Court. These lots will access the proposed private Talon Court via a use-in-common driveway to be shared and maintained by the lot owners. These panhandle lots are utilized as a result of Staff comments to re-align Julia Way to avoid and minimize water body disturbances originally proposed, by moving the road to the north. The re-alignment caused three lots that originally had adequate frontage to be lacking, and therefore required panhandles. Due to the odd shape of this portion of the property, a panhandle design is the most effective way to provide street access to these lots.
- Lot 1, located behind Lots 2-4 on the north side of the development, appears to be a panhandle, although this lot contains the required road frontage on Quinn Road and therefore does not fit the definition of a panhandle lot. Lot 1 is served by a single use driveway and an access and maintenance easement with Lots 3 & 4. The Applicant has conducted Intersection Sight Distance (ISD) and Safe Stopping Distance (SSD) tests along the Lot 1 frontage of Quinn Road and both ISD and SSD are acceptable if a driveway had to be placed on the Lot 1 frontage.

Panhandle lots may be approved by modification of the Planning Commission in major subdivisions only when it is determined by the commission that “excellence of design” will be achieved or that such lots are inaccessible to the road due to odd shape and/or topographical constraints. The Planning Commission shall determine excellence of design based on the spatial relationship of the panhandle lot to other lots and the public road. Only physical design criteria such as odd shape and road inaccessibility, topography, existing utilities, proposed and existing well and septic constraints and natural or man-made features shall be used by the Planning Commission in granting modifications for panhandle lots in major subdivisions. Staff worked with the Applicant on achieving a design that minimized redundant road infrastructure and avoided disturbance within the water body buffer. The Applicant has provided a panhandle modification request, attached as Exhibit #2.

#### **Subdivision Regulation Findings/Conclusions:**

The project will meet all Subdivision Regulation requirements once all agency comments and conditions are complied with and if the Planning Commission finds that the panhandle lots meet “excellence of design” or “are inaccessible to the road due to odd shape or topographical constraints.”

#### **OTHER APPLICABLE REGULATIONS**

***Moderately Priced Dwelling Units – Chapter 1-6A:*** MPDU requirements will be met by an executed “Payment in Lieu” Agreement. The Agreement must be in place prior to recordation of Final Plats.

***Stormwater Management – Chapter 1-15.2:*** Stormwater management will be provided in accordance with the Maryland SWM Act of 2007. A SWM Concept Plan has been submitted and approved (AP15067).

***APFO – Chapter 1-20:*** This subdivision is subject to meeting APFO requirements for schools and roads.

The following areas are addressed in the APFO Letter of Understanding (LOU) signed by the Applicant and the former BOCC and dated June 9, 2013. A summary of the APFO findings and requirements are as follows:

1. **Schools:** Attendance Areas: Oakdale ES, Oakdale MS, Oakdale HS. The Project is projected to generate 12 elementary school students, 7 middle school students, and 8 high school students. Based on these numbers and considering enrollment projections from pipeline development, the school adequacy test fails at the elementary and middle school levels. The Applicant has chosen the option to mitigate the school inadequacy by paying the School Construction Fees under Section 1-20-62 of the APFO. This Project is eligible to utilize the School Construction Fee option per the criteria set forth in Section 1-20-62 of the APFO.
2. **Roads:** The Project will generate 50 or less total vehicle trips during the highest daily peak hour of the adjacent street traffic, as defined in accordance with applicable regulations, and therefore, the project was not required to submit a full traffic impact analysis (Frederick County Code Section 1-20-30(A)).

The roadway impacts for this Project will be mitigated through pro-rata contributions to existing County-held escrow accounts in accordance with Frederick County standards. The Applicant agreed (as provided in the approved APFO LOU) to contribute \$89,731 to the following improvements in order to mitigate the effects upon the transportation network serving the Project:

**Escrow Accounts:**

Pursuant to Section 1-20-12 of the APFO and in satisfaction of APFO requirements to fully mitigate site-generated trips, prior to the recordation of the first record lot for the Ridges at Long Branch (Ratley) PUD, the Developer shall pay into County-held escrow accounts the following pro-rata contributions:

1. MD 144 and Linganore Road. The Developer shall contribute the appropriate pro-rate share to Frederick County for Escrow Account #3936. As determined by the County Traffic Engineer, the Developer's pro-rata contribution to this road improvement is 0.72% of \$ 300,000 or \$2,160.
2. I-70/Meadow Road Westbound Ramp. The Developer shall contribute the appropriate pro-rate share to Frederick County for Escrow Account #3937. As determined by the County Traffic Engineer, the Developer's pro-rata contribution to this road improvement is 0.4% of \$3,000,000 or \$12,000.
3. I-70/Meadow Road Eastbound Ramp. The Developer shall contribute the appropriate pro-rate share to Frederick County for Escrow Account #3938. As determined by the County Traffic Engineer, the Developer's pro-rata contribution to this road improvement is 0.73% of \$8,000,000 or \$58,400.
4. MD 75 Relocated, South of CSX to Baldwin Road. The Developer shall contribute the appropriate pro-rate share to Frederick County for Escrow Account #3891 for the realignment of MD 75. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 1 trip times \$17,171 per trip or \$17,171.

**Therefore, prior to recordation of any residential plats, the Developer hereby agrees to pay \$89,731 to the escrow accounts for these Road Improvements.** Should this payment not be made within one year of the execution of this Letter, the County reserves the right to adjust this amount, based on an engineering cost index.

3. **Public Water & Sewer:** The Property has a water and sewer classification of W-4/S-4. The Project will be served by public water and sewer by extending public water and sewer lines to the site as shown on the plan. A connection to the 24" main in Baltimore Road at Terra Firma Road is also required.



**Other:**

APFO approval for water and sewer does not guarantee that plats will be recorded or building permits issued. Plat recordation and building permit issuance is subject to compliance with the Annotated Code of Maryland, Environment Article Section 9-512 et.seq. and all applicable County policies and regulations.. Water and /or sewer capacity is not guaranteed until purchased or otherwise contractually committed (with appropriate guarantees by the Project).

**Period of Validity:** The effective date of the APFO approval referenced herein was October 9, 2014 and shall remain valid through October 9, 2017.

**Forest Resource Ordinance – Chapter 1-21:**

The Applicant has submitted a Forest Stand Delineation and Preliminary Forest Conservation Plan. The property contains 5.47 acres of existing forest. The Applicant proposes to clear 1.98 acres of forest. The remaining 3.49 acres of forest, which is located in the stream valley that runs through the center of the western half of the project, will be placed under a perpetual forest conservation easement. The project generates 0.25 acres of additional mitigation requirement due to the amount of forest being cleared. The 0.25 acres will be provided by planting 0.89 acres of new forest along the west side of the stream valley. This planting is 0.64 acres more than is required.

The site contains 20 specimen trees (trees that are 30 inches or greater in diameter). Three specimen trees are proposed to be removed by the Applicant. The Applicant is seeking a modification of the Forest Resource Ordinance (FRO) to permit the removal of the following specimen trees under the provisions of §1-21-40:

Tree ID #	Size and Species	Location	Condition
8	42" Northern Red Oak	Northern edge of Lot 15	Poor
9	33" Northern Red Oak	Middle of Lot 15	Poor
10	39" Chestnut Oak	Southeast side of Lot 16	Fair

The Applicant's FRO Modification Request (Exhibit #3) discusses each tree, its condition, and why its removal is proposed:

- Tree #8 was a double trunk tree, but one of the trunks was cut down years ago. The stump of this cut down trunk has significant rot that has spread into the base of the surviving trunk. The surviving trunk also exhibits branch dieback. The Applicant states that removing this tree is needed to provide the panhandle lot configuration for Lot 9. The Applicant did not address why the lot could not be removed. However, Staff does not object to the removal of this tree due to its poor condition.
- Tree # 9 exhibits a poor form and structure that is likely prone to failure and has limb dieback in the crown. A part of this tree was cut off at some point, creating an open wound that shows the beginning stages of decay. The Applicant states that removing this tree is needed to develop Lots 15 and 16. The Applicant did not address why the lots could not be removed. However, Staff does not object to the removal of this tree due to its poor condition.
- Tree #10 exhibits a V-crotch that is a weak point in the trees structure. Some small and large limbs are dead, but overall the tree is in fair condition. The Applicant states that removing this tree is needed to develop Lots 15 and 16. The Applicant did not address why the lots could not be removed. If Lot 16 is to remain, then the tree will become a hazardous tree due to its proximity to the proposed house site.

Per §1-21-40 of the FRO, nonhazardous specimen trees must be retained unless reasonable efforts have been made to protect them, the plan cannot reasonably be altered, **and** the FCPC finds that the requirements for granting a modification under §1-21-21 have been met.

**§ 1-21-21. MODIFICATIONS.**

(A) *Modification requests. A person may submit a request to the Frederick County Planning Commission (FCPC) for a modification from this chapter or the requirements of Md. Code Ann., Natural Resources Article, §§ 5-1601 through 5-1612, if the person demonstrates that enforcement would result in unwarranted hardship to the person.*

(B) *Required information. An applicant for a modification shall:*

(1) *Describe the special conditions peculiar to the property that would cause the unwarranted hardship;*  
 (2) *Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;*

(3) *Verify that the granting of the modification will not confer on the landowner a special privilege that would be denied to other applicants;*

(4) *Verify that the modification request is not based on conditions or circumstances that are the result of actions by the applicant;*

(5) *Verify that the request does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; and*

(6) *Verify that the granting of a modification will not adversely affect water quality.*

(C) *Modification approval. The FCPC must make a finding that the applicant has met the requirements in subsection (B) of this section and that enforcement would cause the applicant unwarranted hardship before the FCPC may approve any modification.*

In order for the FCPC to grant a modification to allow the removal of specimen trees, the FCPC must find:

- that reasonable efforts have been made to protect the specimen trees and that the plan cannot reasonably be altered (in accordance with § 1-21-40 (B)(1), and;
- that the Applicant meets the six criteria outlined under §1-21-21 (B)

The Preliminary FRO Plan must be approved prior to Preliminary subdivision plan approval. FRO mitigation must be provided prior to applying for grading permits, building permits, or lot recordation, whichever is applied for first.

**Historic Preservation – Chapter 1-23:** There are no historic resources located on this site.

**Summary of Agency Comments**

<b>Other Agency or Ordinance Requirements</b>	<b>Comment</b>
<b>Development Review Engineering (DRE):</b>	Conditionally Approved
<b>Development Review Planning:</b>	Hold. Address all agency comments as the plan proceeds through to completion.
<b>State Highway Administration (SHA):</b>	N/A
<b>Div. of Utilities and Solid Waste Mngt. (DUSWM):</b>	Conditionally Approved
<b>Health Dept.</b>	N/A
<b>Office of Life Safety</b>	Approved
<b>DPDR Traffic Engineering</b>	Approved
<b>Historic Preservation</b>	N/A

## **RECOMMENDATION**

If the Planning Commission approves the requested modifications, panhandle lots, and the removal of specimen trees on the bases described herein, then Staff has no objection to conditional approval of the Preliminary Plan.

Based upon the findings and conclusions as presented in the staff report the application meets or will meet all applicable Subdivision, Zoning, APFO, and FRO requirements. Should the FcPc grant approval of this application (S-1169, AP 15066), including approval of the APFO (AP 15068) and approval of the use of panhandle lot design in a major subdivision, Staff recommends that the following items be added as conditions to the approval:

1. The Applicant shall comply with all Staff and agency comments through the completion of the plan.
2. The Preliminary FRO Plan must be approved prior to Preliminary subdivision plan approval. FRO mitigation must be provided prior to applying for grading permits, building permits, or lot recordation, whichever is applied for first.
3. The Preliminary Plan approval is valid for the lesser of five (5) years from the date of FcPc approval, or the period of APFO approval (per §1-16-71(Q)). Therefore, the Preliminary Plan approval also expires on October 9, 2017.
4. All common driveways must be constructed prior to lot recordation.
5. Planning Commission approval of the requested height and setbacks as depicted on the Ridges at Long Branch Preliminary Plan:

**Setbacks:** The Applicant is requesting approval of the following setbacks:

- **Single Family Detached Homes on a public street:** 20-foot front yard, 20-foot rear yard, and 6-foot side yards. Building height is proposed to be 45' feet.
  - **Single Family Detached Homes on a shared driveway:** 6-foot front yard, 10-foot rear yard, and 6-foot side yards. Building height is proposed to be 45' feet.
6. Planning Commission approval of the use of open section construction along Terra Firma Road and Terra Firma Way.
  7. Planning Commission approval of the proposed panhandle lots in accordance with §1-16-219 (C) (2).
  8. The purchasers of the panhandle lots are to be notified of the responsibilities of maintaining the panhandle area and common driveway.
  9. Planning Commission approval of an Alternate Landscape Plan to allow 104 of the required 192 street trees to be located within the open space parcels due to site distance and street tree location. Parking Space Modification: Parking space modification in accordance with Section 1-19-6.220.A.3., to permit a parking overage of 43 spaces above the required 86, for a total proposed count of 129.
  10. Planning Commission approval of request to allow the removal of specimen trees 8, 9, and 10 under the provisions of §1-21-40.

### **PLANNING COMMISSION ACTION** **MOTION TO APPROVE**

I move that the Planning Commission **APPROVE S-1169 (AP 15066) with the conditions and modifications** as listed in the staff report for the proposed preliminary plan, approval of the APFO (AP 15068), based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.



**Ridges at Long Branch  
(Formerly Known as Ratley Property)  
Frederick County, Maryland**





Dewberry Consultants LLC  
321 Ballenger Center Drive, Suite 103  
Frederick, MD 21703-4565  
301.663.3158  
301.663.3679 fax  
www.dewberry.com

June 24, 2015

Tolson DeSa  
Frederick County Government  
Community Development Division  
30 N. Market Street  
Frederick, MD 21701

**RE: Ridges at Long Branch (formally Ratley Property) – Preliminary Plan (A/P#15066)  
Modification Request**

Dear Mr. DeSa,

On behalf of our client, Hogan Realty Capital, LLC, we respectfully submit for consideration by the Planning Commission this request for modifications to requirements set forth in the Frederick County Zoning Ordinance. In addition we are providing justification for each requested modification.

#### **Street Tree Modification**

Pursuant to §1-19-6.400(A) of the Zoning Ordinance, one (1) street tree must be provided for every 35 feet of roadway frontage along the paved surface of an existing or proposed public right of way. If the number of required street trees cannot be accommodated within the public right of way and alternative planting design may be approved by the Planning Commission. A total of 192 street trees are required along the public right of ways of both existing and proposed roads of the subdivision which totals approximately 6,720 linear feet. Due to sight distance and street tree location requirements set forth in the *Guidelines for Traffic Control Devices, Street Lights and Street Trees for New Developments*, we request a modification to provide 104 street trees at alternative locations in the open space parcels throughout the project.

#### **Parking Modification**

Pursuant to §1-19-6.200(A)(1) of the Zoning Ordinance, parking spaces shall be limited to the number of spaces required by the proposed use in the table found in 1-19-6.220 and an increase or reduction in the number of required spaces may be granted by the Planning Commission. Based on single family use, a target of two spaces per unit is required therefore  $43 \times 2 = 86$  spaces required. The number of spaces provided for each unit is 3 spaces, with 1 located in a two-car garage and 2 on a two-car driveway. We request that an additional 43 on-lot spaces be provided over the 86 spaces required for the single family use.

#### **Panhandle Modification**

Pursuant to §1-16-219(C) (2), "panhandle lots may be approved by modification of the Planning Commission in major subdivisions only when it is determined by the Commission that "excellence of

design" will be achieved or that such lots are inaccessible to the road due to odd shape and/or topographical constraints." The project proposes four panhandle lots (Lots 13, 14, 15 and 16) with a shared driveway located on the south side of Julia Way along the eastern property line. These panhandle lots are utilized in response to Staff comments that recommended the re-alignment of the street to avoid and minimize water body disturbances originally proposed, by moving the road to the north. This re-alignment, in effect, simplified a redundant road network by eliminating a second and somewhat parallel road that provided a future connection to the Taylor/Hayes property to the east. With the re-alignment of Julia Way, three lots that originally had adequate road frontage were now lacking, therefore, panhandles were explored to provide the required frontage. In addition, a lot from another area of the site was relocated here to remedy grading issues in the area of the southern 'eyebrow', thus providing the maximum of 4 stacked panhandle lots with a shared driveway. We request this panhandle modification due to the odd shape of the 'developable envelope' in the eastern land bay which is delineated by the water body buffer and steep slopes to the west and property boundaries to the south, east and north while providing the required physical street connection to the adjacent parcel

If you have any questions or concerns related to our understanding written above, or any of the submitted documents, please do not hesitate to contact me at your convenience.

Sincerely,

A handwritten signature in blue ink, appearing to read 'W. KC Reed', with a stylized flourish extending to the right.

William 'KC' Reed, PE  
Associate / Project Manager

Cc: Victor White, Hogan Realty Capital, LLC



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Rockville, MD 20850 | www.dewberry.com

March 5, 2015

Mike Wilkins  
Frederick County Government  
Community Development Division  
30 N. Market Street  
Frederick, MD 21701

RE: Ratley Property  
Request for FRO Modification – Specimen Tree Modification  
Preliminary Plan #15066 and FRO #15069

Dear Mr. Wilkins,

On behalf of the applicant, Hogan Realty Capital, LLC, we are requesting a Modification from the provisions of § 1-21-40(B)(1)(e) of the Frederick County Code also known as the Forest Resource Ordinance (FRO) of Frederick County, to allow for the disturbance of trees, shrubs, and plants in priority areas which include nonhazardous trees that:

- (1) Are part of a historic site;
- (2) Area associated with a historic structure;
- (3) Have been designated by the state or the Department as a national, state, county, or municipal champion tree; and
- (4) Are specimen trees, or are 75 percent or more of the diameter, measured at 4.5 feet above the ground, of the current state champion tree of that species as designated by the Department of Natural Resources.

The Applicant is seeking a modification to permit the removal of three (3) nonhazardous specimen trees to accommodate the proposed improvements for a 43 lot single family subdivision.

Pursuant to §5-1611 of the Natural Resources Article of the Maryland Annotated Code and §1-21-21 of the Frederick County Code, we respectfully submit this request for a Modification from Chapter 1-21 and provide the following justification explaining the special features, site circumstances or other information that demonstrates that enforcement of the Code would result in an unwarranted hardship to the Applicant.

This Variance is being submitted for review and approval in conjunction with Preliminary Plan #15066 and Forest Resource Ordinance Plan #15069.

Mike Wilkins  
Ratley Property Request for FRO Modification – Specimen Tree Variance  
Preliminary Plan #15066 and FRO #15069  
March 5, 2015

## Background

This Modification request accompanies the submission of a preliminary that proposes 43 single family lots, associated road network, and open space parcels. Situated along existing Terra Firma Road and Terra Firma Way, the Subject Property is identified on Tax Map 78 as Parcel 122, a 23.61 acre parcel.

On October 9, 2014 the property was rezoned from Agricultural and R-1 to Planned Unit Development (PUD) as approved in Ordinance No. 14-18-673 with three conditions:

1. A maximum of 43 single family detached dwelling units may be constructed on the Property
2. The Applicant shall provide a physical street connection to the adjacent parcel to the east
3. The lots with direct access to Terra Firma Road shall use shared driveways

In addition a Development Right and Responsibilities Agreement (DRRA) with Adequate Public Facilities Letter of Understanding (APFO LOU) has been recorded at Book 10241, Page 0385 in the Land Records of Frederick County.

## Variance Trees

This Variance requests the removal of three (3) nonhazardous specimen trees as described in the below table and as shown on the Forest Resource Ordinance Plan:

Tree#	Common Name	Scientific Name	DBH(in.)	Condition	Remarks	Proposed Action
8	Northern Red Oak	<i>Quercus rubra</i>	42	Poor	Top damage, decay, open wounds, dieback	To be Removed
9	Northern Red Oak	<i>Quercus rubra</i>	33	Poor	Top damage, decay, open wounds, poor branching, dieback	To be Removed
10	Chestnut Oak	<i>Quercus prinus</i>	39	Fair	V-fork, root damage, trunk damage, poor branching, needs pruning, dieback	To be Removed

## Explanation of Proposed Disturbances to Individual Trees

### Specimen Tree #8 (42" d.b.h. Northern Red Oak)

Tree #8 is located on proposed panhandle Lot #15 along the eastern property line. Although the apparent health of this tree is considered Poor with structural defects that predisposes the tree to failure (top damage, decay, and open wounds) it has no apparent target. Because there is a lack of target, the tree is considered non-hazardous. Due to the shape of the developable envelope in this eastern block, delineated by the water body buffer and steep slopes to the west and property boundaries to the south, east and north, removal of this tree is needed to provide the panhandle lot configuration.



**Specimen Tree #9 (33" d.b.h. Northern Red Oak)**

Tree #9 is also located on proposed panhandle Lot #15 along the eastern property line. Although the apparent health of this tree is considered Poor with structural defects that predisposes the tree to failure (top damage, decay, poor branching and open wounds) it has no apparent target. Because there is a lack of target, the tree is considered non-hazardous. As explained above with Tree #8, due to the shape of the developable envelope in this eastern block, delineated by the water body buffer and steep slopes to the west and property boundaries to the south, east and north, removal of this tree is needed to provide the panhandle lot configuration.

**Specimen Tree #10 (39" d.b.h. Chestnut Oak)**

Tree #10 is located on proposed panhandle Lot #16 abutting the eastern property line. Although the apparent health of this tree is considered Fair with structural defects that predisposes the tree to failure (V-fork, root damage, trunk damage, poor branching, and dieback) it has no apparent target. Because there is a lack of target, the tree is considered non-hazardous. As explained above with Tree #8 and #9, due to the shape of the developable envelope in this eastern block, delineated by the water body buffer and steep slopes to the west and property boundaries to the south, east and north, removal of this tree is needed to provide the panhandle lot configuration.

Pursuant to § 1-21-21 of the Fredrick County Code, a written request may be submitted to the Fredrick County Planning Commission (FCPC) to request a modification from the Chapter or any regulation adopted under it if it is demonstrated that enforcement would result in unwarranted hardship to the person. Under § 1-21-21(B) *Required Information*, states that an applicant for a modification must:

- (1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;
- (2) Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;
- (3) Verify that the granting of the modification will not confer on the landowner a special privilege that would be denied to other applicants;
- (4) Verify that the modification request is not based on conditions or circumstances that are the result of actions by the applicant;
- (5) Verify that the request does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; and
- (6) Verify that the granting of a modification will not adversely affect water quality.

As required, we provide the following justification:

*(1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;*

The proposed removal of the three (3) specimen trees is needed to implement the proposed Preliminary Plan layout and meet two of the three conditions of the Rezoning Approval, which specifically are to provide the target density of 43 units and provide a physical street connection to the property to the east. There are a number of special conditions peculiar to the property, which, if enforcement of the Chapter would result in an unwarranted hardship.

The Subject Property is divided by existing Terra Firma Road which runs north and south through the parcel with an existing pond, stream and associated waterbody buffer that parallels the road just to the east. The lots proposed on the western half utilize both existing Terra Firma Road and Way for their public road frontage requirements. On the eastern half, however, a proposed road (Road 'A') is needed to provide access to a developable land bay and future connection to the adjacent property to the east. Overall, approximately 50% of the Parcel is restricted to improvements due to waterbody buffers and steep slopes associated with the cut / fill slopes for terra Firma Road and Way.

IN addition, providing the required street network, associated infrastructure, and acceptable vehicular access within the rather restrictive area of eastern land bay, the panhandle configuration of Lots 13, 14, 15 and 16 provides an acceptable solution, however, this is where the three (3) specimen trees are situated. Due to these conditions, if the request for the removal of these trees is denied, it would cause an unwarranted hardship to the applicant.

*(2) Describe how enforcement of this Chapter will deprive the landowner of rights commonly enjoyed by others in similar areas*

The preservation of three (3) specimen trees would impose a reduction in the allowed density and require alteration to the current Preliminary Plan layout of which the applicant has worked with Staff to provide an acceptable design. If the request is not granted, it will deprive the landowner of rights commonly enjoyed by others that develop similar properties with special conditions as this one.

*(3) Verify that the granting of the modification will not confer on the landowner a special privilege that would be denied to other applicants;*

The Planning Commission has previously granted requests for specimen tree removal to similar projects, therefore this will not confer the landowner a special privilege that would be denied to other applicants.

*(4) Verify that the modification request is not based on conditions or circumstances that are the result of actions by the applicant;*

As described in (1) above, this modification request is not based on conditions or circumstances that are the result of actions by the applicant, however due to conditions peculiar to the property. In addition, the applicant is adhering to the requirements of the Frederick County Zoning Ordinance in the development of the Site Plan.

*(5) Verify that the request does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; and*

This request for the removal of three (3) specimen trees is based on the conditions peculiar to this property as described above and does not arise from a condition related to land or building use on a neighboring property.

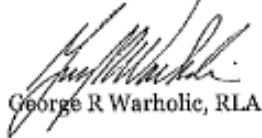
*(6) Verify that the granting of a modification will not adversely affect water quality.*

The project is subject to the Frederick County Stormwater Management Ordinance and Sediment and Erosion Control Ordinance which both are in accordance with State regulations. The removal of the three (3) trees included in this request will not result in measurable degradation in water quality.

Mike Wilkins  
Ratley Property Request for FRO Modification – Specimen Tree Variance  
Preliminary Plan #15066 and FRO #15069  
March 5, 2015

Thank you for your consideration of this Modification request. We believe that the supporting information presented with this letter provides adequate justification for the approval of the requested Modification to remove three (3) nonhazardous specimen trees. Please free to contact me at 301-337-2863 if you have any questions.

Respectfully Submitted,  
Dewberry Consultants LLC



George R Warholic, RLA

Cc: Victor White, Hogan Realty Capital, LLC

**Specimen Tree #8**

Large open wound provides access for decay (present) Cavity will eventually form creating significant trunk stability issues.



Wound and decay on remaining trunk stem.



Evidence of lower trunk decay potential spreading into roots



Some major branches dead and tip dieback





**Specimen Tree #9**

Large open wound provides access for decay, a cavity will eventually form



Significant top die back is present and several major branches have died



Nearby tree has fallen into the remaining stem of this tree causing additional damage and openings for decay.



Branches hanging in crotch likely open wound and decay potential in V-crotch that is inherently weak



**Specimen Tree #10**  
Girdling roots evident



Some major branches dead, need pruning



V-crotch (very weak) with included bark and some potential decay



Open wounds and decay in top – some vines present in canopy

